



Attorney Docket No.: SP00-386

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: George E. Berkey, et al.

Serial No: 10/023,291

Group Art Unit: 1731

Filing Date: 12/14/2001

Examiner: John M. Hoffmann

Title: LOW WATER PEAK OPTICAL  
WAVEGUIDE FIBER

**AFFIDAVIT**

STATE OF NEW YORK:  
COUNTY OF STEUBEN:

**AFFIDAVIT DISQUALIFYING COMMONLY OWNED APPLICATIONS AS PRIOR ART**

I, Joseph M. Homa (Reg. 40,023) being an attorney of record in the above-listed case, being duly sworn, depose and state the following:

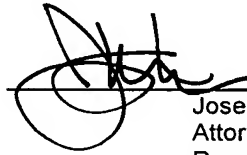
1. Upon information and belief, co-pending application serial number 09/722,804 was invented by Dana C. Bookbinder, Daniel W. Hawtof, and Dale R. Powers.
2. Upon information and belief, co-pending application serial number 09/996,632 was invented by George E. Berkey, Daiping Ma, and Snigdharaj Mishra.
3. Upon information and belief, co-pending application serial number 09/822,168 was invented by George E. Berkey, Scott R. Bickham, Michael B. Cain, Pamela A. Hajcak, Upendra H. Manyam, V. Srikant, and Snigdharaj Mishra.
4. Upon information and belief, co-pending application serial number 09/558,770 was invented by Martin W. Allen, Dana C. Bookbinder, Dipak Chowdhury, Daniel W. Hawtof, and Dale R. Powers.
5. Upon information and belief, the present application serial number 10/023,291 was invented by George E. Berkey, Dana C. Bookbinder, Richard M. Fiacco, and Dale R. Powers and, therefore, 09/722,804, 09/996,632, 09/822,168, and 09/558,770 include different inventive entities than 10/023,291.
6. Upon information and belief, Martin W. Allen, George E. Berkey, Scott R. Bickham, Dana C. Bookbinder, Michael B. Cain, Dipak Chowdhury, Richard M. Fiacco, Pamela A. Hajcak, Daniel W. Hawtof, Daiping Ma, Upendra H. Manyam, Snigdharaj Mishra, Dale R. Powers, and V. Srikant were each subject to a legal duty to assign their entire right, title, and interest in their inventions by way of individual employment agreements executed between themselves and Corning Incorporated (the assignee of each of the inventions).
7. Upon information and belief, Martin W. Allen, George E. Berkey, Scott R. Bickham, Dana C. Bookbinder, Michael B. Cain, Dipak Chowdhury, Richard M. Fiacco, Pamela A. Hajcak, Daniel W. Hawtof, Daiping Ma, Upendra H. Manyam, Snigdharaj Mishra, Dale R. Powers, and V. Srikant each did, in fact, execute legal assignments to transfer their entire right, title, and interest in their inventions to Corning Incorporated.

8. Upon information and belief, the subject matter of co-pending application serial numbers 09/722,804, 09/996,632, 09/822,168, and 09/558,770 and the claimed invention of the present application serial number 10/023,291 were:

- (a) owned by the same person or subject to a legal obligation of assignment to the same person (namely Corning Incorporated); and
- (b) owned by the same person or subject to a legal obligation of assignment to the same person (namely Corning Incorporated) at the time of the invention claimed in the present application serial number 10/023,291 was made.

6. Therefore, upon information and belief, it is asserted that co-pending application serial numbers 09/722,804, 09/996,632, 09/822,168, and 09/558,770 should be disqualified as prior art to the present application serial number 10/023,291 under 35 USC 103.

WHEREFORE, I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, and any patent to which this declaration is directed.



Joseph M. Homa  
Attorney for Assignee  
Reg. 40,023

Sworn to before me this  
9<sup>th</sup> day of March, 2004

  
Notary Public

MICHELE N. O'DELL  
Notary Public, State of New York  
Schuyler County No. 4712916  
Term Expires 5/31/06